

Contact

Houston

1200 Smith Street, Suite 1400
Houston, Texas 77002-4310
Tel: 713.658.1818
Fax: 713.658.2553

Atlanta

191 Peachtree Street, N.E.,
Forty-Sixth Floor
Atlanta, Georgia 30303
Tel: 404.659.1410
Fax: 404.659.1852

Philadelphia

300 Conshohocken State Road
Suite 570
West Conshohocken, PA 19428
Tel: 610.772.2300
Fax: 610.772.2305

San Antonio

112 East Pecan Street, Suite
1450
San Antonio, Texas 78205
Tel: 210.253.8383
Fax: 210.253.8384

Key Takeaways from the ACG M&A South Conference

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Scott Augustine, Erica Opitz, and Keegan McCaster recently attended the ACG Atlanta M&A South Conference, where they gained valuable insights on critical developments shaping mergers and acquisitions. The following key takeaways highlight significant regulatory changes, ongoing compliance considerations, and evolving market conditions that will impact transaction structures and due diligence processes in 2025.

- 1. HSR Filings** – The US Federal Trade Commission updated the Hart-Scott-Rodino (HSR) Form and Instructions for pre-merger notification filings—requiring more burdensome disclosures. The 2025 minimum filing threshold will be \$126.4 million effective as of February 21, 2025. The increased information that is required to be disclosed by the parties, including research and development reports and customer/supplier lists, will likely result in most strategic acquisitions using a “sign then close” acquisition structure. This will avoid the disclosure of confidential competitive information prior to having an executed and enforceable purchase agreement in place.
- 2. ACA and Health Care Due Diligence** – Consistent with prior years, transaction due diligence on the target’s Affordable Care Act (ACA) compliance and failure to file Forms 1094-C and 1095-C as required under the ACA is in the spotlight (including the newly established 6-year statute of limitations period on employer shared responsibility payments). Also, consistent focus is being applied to vet a target’s health insurance plan and to identify opportunities for savings and to mitigate potential post-closing exposures.
- 3. R&W Insurance** – The R&W insurance market is in a soft period as a result of the overall downturn in deal volume in 2024. In addition to decreases in premiums for R&W insurance, and as a result of more data available to insurers based on claims experience, additional coverages may be available, including coverage for a breach of the typical “no additional liability representation” and some historically line-item exclusions from coverage. Also, greater focus and sophistication is being placed on the integration of pre-and-post-closing commercial liability insurance coverages, including environmental impairment and post-closing tax treatment.